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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Economic Development and Business
Wednesday, January 30, 2019
10:00 a.m.
State Capitol, Conference Room 309**

**On the following measure:
H.B. 314, RELATING TO GIFT CERTIFICATES**

Chair McKelvey and Members of the Committee:

My name is Stephen Levins, and I am the Executive Director of the Department of Commerce and Consumer Affairs' (Department) Office of Consumer Protection (OCP). The Department supports this bill.

The purpose of this bill is to require a certificate issuer to redeem the remaining value of a gift certificate for cash if the gift certificate has a value of less than \$5.

Currently, 12 states have laws requiring that a merchant issue cash on unused gift certificate balances. Favorable consideration of this measure will allow Hawaii to join other states in requiring gift certificate issuers to provide cash to consumers if the remaining certificate balances amount to less than \$5.

Thousands of Hawaii consumers received gift certificates during the recent holiday season. Although many certificates had just a few dollars remaining on the balance, most merchants did not provide the remaining cash to consumers but instead returned certificates with balances that will probably go unused or forgotten or become

lost. Many consumers simply do not regard a gift certificate with a small balance worth the effort to carry around. This is supported by statistics issued by Consumer Reports, which reported that billions of dollars are left unspent and unredeemed on gift certificates in the United States each year.

Hawaii law mandates that balances left on unredeemed gift certificates do not belong to the merchant. Rather, the balances remaining after the expiration dates must escheat to the State as unclaimed property under Hawaii Revised Statutes section 523A-9. Consequently, requiring merchants to provide cash to consumers does not deprive them of anything they are entitled to and in fact facilitates the disposition of funds that might otherwise have to be turned over to the State as unclaimed.

This measure will help ensure that consumers receiving gift certificates obtain their full benefits. Thank you for the opportunity to testify on this bill.

HB-314

Submitted on: 1/25/2019 4:05:27 PM

Testimony for EDB on 1/30/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Lindsey Dymond	Kalapawai Market & Cafes	Comments	No

Comments:

Aloha,

Some small businesses use a third party gift card provider where the funds from the gift cards purchased go on the third party PROVIDER's books as the liability and the individual retailer or restaurant sees no funds until they get reimbursed for the gift cards **redeemed** at their businesses/location. An example of this would be used in a co-op environment where multiple small businesses benefit from one pre-paid gift card to reduce administrative expenses and encourage customer cross-over. The company that has the liability of the remaining \$5 is the 3rd party and the customer seeking this cash would have to contact them directly and not be able to get their cash at the time of redemption. Please include language to keep this situation in mind and to not make the retailers appear in violation to their customers.

Mahalo,

Lindsey Dymond



Tyler Roukema, Chairman – Outback Steakhouse **Kelii Gouveia, Incoming Chair** – Hula Grill
Hide Sakurai, Vice Chair – Diamond Dining **Dirk Koeppenkastrop, Secretary** – Il Gelato
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To: Rep. Angus L.K. McKelvey, Chair
 Rep. Lisa Kitagawa, Vice Chair
 Members of Committee on Economic Development & Business

From: Victor Lim, Legislative Chair
 Hawaii Restaurant Association

Subj: HB 314 Relating to Gift Certificates

Date: January 28, 2019

We at the Hawaii Restaurant Association representing over 3,500 restaurants in Hawaii opposes HB 314 requiring the business that issuer of the Gift Certificate/Gift Cards with a remaining balance of less than \$ 5 for cash.

For a high end retailer or restaurant this bill might work but for many of the businesses that also cater to the lower end of the price range on merchandise and foods, this poses a major problem especially if you sell many items at the \$ 1 or \$2 range, be it a pack of gum, a shave ice, or a cup of coffee or drink.

At many of the quick service restaurants, the \$ 5 denomination gift card is quite popular where many people buy them to give to students so that they are used to foods. If the purchase is more than what's the value on the card, the customer can supplement the balance with cash so that the value of the card is fully utilized. These cards are also reloadable.

Thank you very much for giving us this opportunity to share our views with your committee and please let us know if you have further questions on this.

Aloha.



HB-314

Submitted on: 1/27/2019 12:27:59 PM

Testimony for EDB on 1/30/2019 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Zachary LaPrade	Individual	Support	No

Comments:

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**TESTIMONY OF TINA YAMAKI
PRESIDENT
RETAIL MERCHANTS OF HAWAII
January 30, 2019**

Re: HB 314 Relating to Gift Certificates

Good morning Chairperson McKelvey and members of the House Committee on Economic Development and Business. I am Tina Yamaki, President of the Retail Merchants of Hawaii and I appreciate this opportunity to testify.

The Retail Merchants of Hawaii (RMH) as founded in 1901 and is a statewide, not for profit trade organization committed to the growth and development of the retail industry in Hawaii. The retail industry is one of the largest employers in the state, employing 25% of the labor force.

While we understand the intent of this measure, RMH is in opposition to HB 314 that would require a certificate issuer to redeem the remaining value of a gift certificate for cash if the gift certificate has a value of less than \$5.

Gift cards are for the most part gifts and can be purchased and activated anonymously. Most store and restaurant gift cards and gift certificates already state that they are non-refundable and non-returnable. Gift card transactions are like credit cards and the retailers are often charged a small fee to process the card.

Many retail stores carry items that can be purchased for \$5 or less with the use of a gift card or an E-gift card. Most retailers today issue gift cards whose amounts are determined by the purchaser. Some can be loaded for 1 penny, \$1, \$10, \$100 or more. Many of these gift cards are also able to be reloaded and do not have expiration dates. This bill would allow people who purchase gift cards in the amounts of \$5 or less to redeem for cash without purchasing an item.

In addition there are also third party resellers who have gift card malls for other company's restaurant, attractions, retail, home improvement... This would be like the rack of gift cards you see at grocery stores for movies, online merchants and more. Under this measure, the gift card could be purchased at a 3rd party location and then have cash redeemed at the business associated with the gift card and not where it was originally purchased.

Furthermore, while many gift cards can be used to make purchases only at a specific retail store, some gift cards are actually reloadable prepaid cards that are similar to debit cards and lets the customer not only make purchases at any retail store that accepts that card network but also can be used to withdraw cash at ATMs, banks as well as used on web features such as bill pay.

We respectfully request that you hold this measure. Mahalo again for this opportunity to testify.